

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**ANTHONY J. FAWCETT,**

**Plaintiff,**

**v.**

**MICHAEL J. ASTRUE,  
COMMISSIONER OF SOCIAL SECURITY,**

**Defendant.**

:  
:  
:  
:  
:  
:  
:  
:  
:  
:

**Case No. 4:07-CV-1412**

**JUDGE KATHLEEN O'MALLEY**

**ORDER**

On November 15, 2008, Plaintiff petitioned the Court for an award of attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d) (the "EAJA"). (Doc. 23.) Defendant opposed this petition in part (Doc. 24), and the Court referred the matter to Magistrate Judge David S. Perelman for preparation of a report and recommendation ("R&R") (Doc. 25). On December 3, 2008, the Magistrate Judge issued his R&R, recommending that an EAJA award be made to the Plaintiff in the amount of \$2,826.36 (16.95 attorney hours at \$165.42 per hour, plus 0.5 paralegal hours at \$45.00 per hour). (Doc. 26.)

On December 11, 2008, Plaintiff then moved the Court to amend his EAJA petition to include the assignment of any EAJA award to his attorney Suzanne J. Hayden, Esq. (Doc. 27.)

To date, notwithstanding Plaintiff's motion to amend his petition – which sought only to have the payment of the EAJA award made directly to attorney Hayden and did not challenge any other aspect of the R&R, including the recommended amount of the EAJA award – neither party has objected to the R&R. Further, to date, Defendant has not responded to Plaintiff's motion to amend his petition. Because the time for objecting to the R&R and for responding to the Plaintiff's motion to amend have expired, *see* Local Rules 72.3 and 7.1, the matter is now ripe for determination.

Accordingly, after careful consideration of the entire record and the applicable law, the Court hereby orders as follows:

(1) Plaintiff's Petition for an Award of Attorney Fees Pursuant to the EAJA (Doc. 23) is **GRANTED in part** and **DENIED in part**;

(2) Plaintiff's Motion for Leave to Amend the EAJA Petition (Doc. 27) is **GRANTED**; and

(3) Plaintiff's attorney, Suzanne J. Hayden, Esq., is awarded fees under the EAJA in the amount of \$2,826.36 (16.95 attorney hours at \$165.42 per hour, plus 0.5 paralegal hours at \$45.00 per hour).

**IT IS SO ORDERED.**

/s/Kathleen M. O'Malley  
**KATHLEEN McDONALD O'MALLEY**  
**UNITED STATES DISTRICT JUDGE**

**Dated: January 15, 2009**